

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

LESLEY DEMOND,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 3:17-CV-1322-D
VS.	§	
	§	
INFINITI HR, LLC, et al.,	§	
	§	
Defendants.	§	

MEMORANDUM OPINION
AND ORDER

Defendants-cross-plaintiffs Online Sales Step by Step, LLC d/b/a eGrowth Partners (“eGrowth”) and Cynthia Gail Stine (“Stine”) move for leave to amend cross-claim. No response to the motion has been filed, and the court now grants it.*

Fed. R. Civ. P. 15(a)(2) provides that “[t]he court should freely give leave [to amend] when justice so requires.” Additionally, when, as here, a motion for leave to amend is filed before the deadline in the scheduling order for filing such a motion, the court applies a “presumption of timeliness.” *Poly-Am., Inc. v. Serrot Int’l, Inc.*, 2002 WL 206454, at *1 (N.D. Tex. Feb. 7, 2002) (Fitzwater, J.). Defendant-cross-defendant Infiniti HR, LLC (“Infiniti”) has not responded to eGrowth and Stine’s motion, although in their brief eGrowth and Stine indicate that Infiniti opposes the motion as moot (i.e., futile) due to its pending

*Under § 205(a)(5) of the E-Government Act of 2002 and the definition of “written opinion” adopted by the Judicial Conference of the United States, this is a “written opinion[] issued by the court” because it “sets forth a reasoned explanation for [the] court’s decision.” It has been written, however, primarily for the parties, to decide issues presented in this case, and not for publication in an official reporter, and should be understood accordingly.

forum non conveniens motion to dismiss pursuant to contractual forum selection clause. Accordingly, the court grants eGrowth and Stine's motion for leave to amend cross-claim.

Because Infiniti filed its *forum non conveniens* motion to dismiss pursuant to contractual forum selection clause before the court granted eGrowth and Stine leave to file their amended cross-claim, the court will permit eGrowth and Stine to file a surreply to the motion to dismiss that addresses whether the filing of their amended cross-claim affects the merits of that motion. They must do so within 14 days of the date this memorandum opinion and order is filed. Infiniti may file a final reply within 14 days of the date eGrowth and Stine's surreply is filed.

SO ORDERED.

May 3, 2018



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE